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South Carolina House of Representatives

Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 11

February 1, 1994

No. 3

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House Week in Review

The House began the third week of the 1994 session by taking up congressional and state House redistricting. H. 4332, a bill to enact congressional redistricting, passed in a matter of minutes on Tuesday afternoon. The House amended the bill to make minor changes in the boundaries of the 2nd and 3rd congressional districts in Aiken County and then voted to give the bill second reading. Except for the minor change in congressional district boundaries in Aiken County, the congressional district boundaries under this bill are identical to the boundaries in effect at the time of the 1992 general election.

Debate on H. 4333, a bill to redistrict the State House of Representatives was much more extensive, with 18 amendments offered to this bill. Some of the amendments made only minor changes to a limited number of House districts, while others called for a larger number of majority-black districts. The House approved several amendments to make minor district changes but rejected amendments to increase the number of majority-black districts and finally voted 97 to 17 to give the bill second reading.

Both reapportionment bills, H. 4332 and H. 4333, received third reading on Wednesday and were introduced in the Senate on Thursday.

On Thursday, the House voted to sustain the governor's veto of H. 3200, which would have repealed the state's ban on the public display of dolphins and whales. Also on Thursday, the House voted 58-50 to recall from the Judiciary Committee H. 3246, the choice no-fault auto insurance bill. This bill had been committed to that committee just the week before, on January 20, after having been on the contested calendar since last April. Recall of H. 3246 places that bill back on the House contested calendar.

The House ended the week by taking up H. 3267, the Women's Right to Know Act. This bill requires that certain information be provided to a woman before she may obtain an abortion and also requires a brief waiting period before performance of an abortion. The House debated the measure extensively and was in the process of debating amendments to the bill when the House voted to adjourn. This legislation is on the House calendar for further consideration when the House returns on Tuesday.

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Bills Introduced

Listed on this page and the following pages are summaries of some of the bills introduced in the House last week. Not all bills introduced in the House are listed here. The bills are listed according to the committee to which the legislation was referred.

Agriculture, Natural Resources and Environmental Affairs

Removal of Animals from Certain Traps in Game Zone 9 (H. 4617, Rep. Harvin). This bill amends the current prohibition against visiting animal traps at night so as to allow any person in Game Zone 9 (Clarendon, Georgetown and Williamsburg Counties) to remove at night any animal caught in a rubber-padded leghold trap.

Education and Public Works

Dangerous Railroad Crossings (H. 4607, Rep. Rudnick). Current law allows the Department of Transportation, and local authorities with the Department's approval, to designate particularly dangerous highway railroad crossings and erect stop signs at those crossings. This bill would require the Department, with respect to state highways, and counties and municipalities, with respect to streets and highways within their jurisdictions, to place white lines across the lanes approaching the crossing near the stop sign. Additionally, at railroad crossings located within a half mile of a church or school, the railroad company operating the railroad must place and maintain an illuminated flashing red signal on the highway on each side of the crossing.

Middle and High School Students Must Wear Identification Badges (H. 4609, Rep. Rudnick). This bill requires students enrolled in public middle or high schools, beginning with the 1994-1995 school year, to wear identification badges which identify the student as being currently-enrolled at that school. These badges must include a picture of the student, must be provided to students at no cost, and are the property of the school issuing the badges. Each school board of trustees must establish policies for the issuance and use of these badges, including policies for students who do not wear these badges or who lose or misplace their badges.

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Private School Buses Must Contain Same Equipment and Meet Same Safety Standards as School Buses Operated by Public Schools (H. 4610, Rep. Rudnick). This bill requires private school buses to contain the same equipment and meet the same safety standards as are required for school buses operated by public schools.

Instruction on Government (H. 4611, Rep. Rudnick). This bill requires all high schools to give instruction on the importance of citizen participation in democracy and on how to register to vote in South Carolina. Additionally, the bill provides that the currently-required instruction in the state's publicly-supported colleges and universities in the essentials of American government must be given in a single course of at least 3 semester hours or 5 quarter hours.

South Carolina Council on Higher Education (H. 4612, Rep. Kirsh). This bill creates a South Carolina Council on Higher Education, an entity to which will be assigned all of the responsibilities of the current Commission on Higher Education, along with several additional duties. This legislation is designed to accomplish several goals, among them being improving the state's quality of higher education, ensuring economic and effective use of public tax dollars spent on higher education, and keeping tuition and fees of institutions of higher learning at reasonable levels.

The council must employ an executive director and other staff as authorized by the General Assembly in the annual general appropriations act, and funds for the council's necessary technical, administrative, clerical and other expenses also must be provided in the appropriations act. The council would assume all the powers, duties and functions, along with employees, property and appropriations, of the Commission on Higher Education on February 1, 1995, on which date the Commission on Higher Education would be abolished. In addition to absorption of the Commission's duties, the Council must establish the missions of the institutions of higher learning; set admission standards for the institutions; set acceptable ranges for tuition and fees of each institution; approve institutional budgets; establish personnel policies for these institutions; and confirm the appointments of institutional presidents, with the power to remove these presidents for cause. The bill specifies that except as affected by these provisions, the board of trustees of each institution of higher learning would continue to functions and operate in the same manner as currently provided by law.

The South Carolina Council on Higher Education would consist of 12 members, of whom 9 would be appointed by the governor with the advice and consent of the Senate. Of these 9 members, 6 would represent congressional districts (1 from each district), 2 would be at-large appointments (one of whom would be designated as chairman), and 1 would be appointed upon recommendation of the Independent Colleges and Universities of South Carolina, Inc. Of the remaining 3 board members, 1 must be a member or designee of the board of trustees of one of the state's 3 public senior research institutions of higher learning (Clemson, Medical University of South Carolina, University of South Carolina); 1 must be a member of designee

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of the board of trustees of one of the state's seven public institutions of higher learning (Francis Marion, Coastal Carolina, Lander, Winthrop and South Carolina State Universities, the Citadel, and College of Charleston); and 1 must be appointed by the State Board for Technical and Comprehensive Education, after consultation with the local governing boards of the state's 2-year technical colleges. Except for the governor's at-large appointments, whose terms would be coterminous with the governor, board members would serve staggered 4-year terms. The two members representing the state's universities and colleges must be elected in a joint meeting of the boards of trustees of those universities and colleges.

School Safety (H. 4626, Rep. Martin). This bill requires the installation of metal detector security systems in all public middle, junior high and high schools. The Department of Education would promulgate regulations regarding the type of equipment, its placement, and other matters necessary to implement these systems. Additionally, the bill increases from \$1,000 to \$3,000 the maximum fine which may be imposed on a person convicted of the felony of carrying a weapon on school property and provides that the Circuit Court has exclusive jurisdiction over a child age 16 or older who is charged with a violent crime. The bill also allows a child who has in his possession a deadly weapon to be placed in a secure juvenile detention facility and extends from 24 hours to 48 hours the time a juvenile may be placed in a facility prior to a detention hearing.

South Carolina Higher Education Coordinating Council (H. 4636, Rep. Sharpe). This bill represents an effort to restructure the state's system of higher education so as to allocate the state's available funds for higher education in a more efficient and accountable manner. The bill creates a Coordinating Council for Higher Education, which would be responsible for coordinating the missions of public institutions of higher learning, eliminating duplication, proposing budgetary matters to the governor for the Executive Budget and streamlining the governance of institutions of higher learning. Any functions, duties and responsibilities of the current Commission on Higher Education which overlap with the Council would be transferred to the Council on July 1, 1994.

This council would consist of 10 members, all of whom except the chairman would serve ex-officio. One member must be a member at-large appointed by the governor, and this member must serve as chairman. One member must be the Chairman of the State Board for Technical and Comprehensive Education, and two members must be members of the governing body of a local area technical educational institution chosen by the State Board for Technical and Comprehensive Education. Three members must be the chairman or a board member designated by the chairman of the respective governing bodies of the state's three public senior research institutes of higher learning. Three members must be the chairman or a board member designated by the chairman of the state's 7 other 4-year public institutions of higher learning, with these 3 members selected by the chairman of these boards who must designate by majority vote which of the 7 institutions would have a representative on the council. The terms of the members representing 4-year

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public institutions are 4 years, while the chairman's term is co-terminous with the governor.

The bill requires the governor to appoint an executive director for the council upon the council's recommendation. Funds for the necessary technical, administrative, clerical and other expenses of the council must be included in the annual general appropriations act as part of the appropriation to the governor's office.

All public institutions of higher learning would be required to submit summary budgets to the council, while the State Board for Technical and Comprehensive Education would be required to submit a summary budget representing the total request of all area-wide technical and comprehensive educational institutions. The bill lists information which must be included in these summary budgets and requires the council, after review of these budgets, to submit them, with the council's recommendations, to the governor. In preparing his executive budget for submission to the General Assembly, the governor must consider the summary budget of each public institution of higher learning and the council's accompanying recommendation.

Judiciary

Procedure for Combining a County Election Commission and a County Board of Voter Registration (H. 4593, Rep. A. Young). This bill provides a procedure under which a county may combine its election commission and board of voter registration into a single county voter registration and election commission. The combining of the board and commission may be undertaken upon the adoption by the governing board of a county of a resolution creating the voter registration and election commission. The commission must consist of either 5, 7 or 9 members, and commission members must be appointed by the governor to staggered 4-year terms. Appointments must be made between January 1 and March 15 of even-numbered years, and terms of commission members begin on February 15 of the year when they are appointed.

At least 1 member of the commission must represent the largest political party, and at least 1 member must represent the second largest political party as determined by either (1) the composition of the county's legislative delegation in the General Assembly or (2) the composition of the General Assembly as a whole if the county's delegation consists of only one party's members. The commission must employ a director and any necessary staff. Commission employees are considered county employees and must be hired following county personnel procedures. The members, director and staff of the commission are compensated as may be appropriated by the State and the county governing body. In addition to funds allowed by the State, counties may supplement these funds as considered necessary for the commission to carry out its responsibilities.

Commission members are required to receive 6 hours of training provided and certified by the State Election Commission and must meet quarterly during

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even-numbered years and at other times the chairman may consider necessary. The bill allows the governor to remove any commission member upon reasonable cause or the failure of the member to attend a majority of the commission's meetings. Once the governor appoints members of the commission created under these provisions, the existing county election commission and county board of voter registration is abolished, with their duties, powers and responsibilities transferred to the new commission.

Increased Penalties for Failure of Motorist to Stop When Signaled by Law Enforcement Vehicle (H. 4594, Rep. Jennings). Under current law, it is a misdemeanor, punishable by a fine of at least \$500 or imprisonment of between 90 days and 3 years, for a motorist to fail to stop his vehicle when signaled by a law enforcement vehicle. This bill would make this offense a felony, punishable by a fine of not more than \$1,000 or imprisonment of not more than 5 years, if the motorist attempts to avoid the law enforcement vehicle for a distance in excess of 3 miles. The bill also increases from 30 days to 1 year the minimum driver's license suspension imposed on a motorist who wilfully fails to stop when signaled by the law enforcement officer.

Requirements for Voter Registration by Mail Changed (H. 4598, Rep. Rogers). This bill deletes a provision which requires a person who registers to vote by mail to have his application witnessed by a registered voter of the same county as the applicant; instead, this bill would only require that the application be witnessed by any registered South Carolina voter, regardless of whether or not the voter lives in the same county as the applicant.

Consolidated Government Charter Commissions (H. 4601, Rep. Waites). This bill amends several provisions pertaining to the creation and operation of consolidated government charter commissions. The bill provides that a members of a consolidated government charter commission who misses 3 consecutive commission meetings is deemed to have vacated his seat, and a successor must then be appointed. The bill also deletes provisions which allow a special purpose district or city to exclude itself from consolidation and requires that when an election is held to determine whether a consolidated government subdivision is to be formed, voters in the county must be asked to approve all or a portion of the general obligation debt to be assumed by the consolidated political subdivision. If a majority of voters agree to assume all or a portion of the general obligation debt, then this debt is excluded from the State's constitutional debt limit.

The bill also clarifies that a municipality or special purpose district not included initially in a consolidated political subdivision may not become a part of the consolidated political subdivision unless consolidation is approved by a majority of voters in the municipality/political subdivision and a majority of the governing body of the consolidated political subdivision.

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Local Government Comprehensive Planning Enabling Act (H. 4616, Rep. Hodges). This bill deletes several sections in the Code pertaining to planning and zoning and in their place consolidates planning enabling legislation under a new South Carolina Local Government Comprehensive Planning Enabling Act. This bill lists extensive requirements pertaining to the establishment, operations and powers of planning commissions; the comprehensive planning process; the development of zoning ordinances and regulations, and land development regulation.

Duties of Trustee in Acquiring or Retaining Contract of Insurance (H. 4619, Rep. Huff). This bill provides that the duties of a trustee, with respect to acquisition or retention of a contract of insurance upon (1) the life of the trustor, or (2) the lives of the trustor and his/her spouse do not include a duty to (1) determine whether the contract is or remains a proper investment; (2) exercise policy options available under such contract; or (3) diversify any such contract. The trustee must not be liable to the beneficiaries under the trust instrument or to any other party for any loss arising from absence of this duty upon the trustee. If adopted, these provisions would become effective upon approval of the governor, and except as provided in a trust instrument, these provisions would apply to any trust established before or after the effective date of these provisions, and to any trust asset acquired by the trustee before or after the effective date of these provisions.

Referendum on Flying Confederate Flag at the State House (H. 4623, Rep. Cromer). This joint resolution requires a statewide referendum to be held at this November's general election to determine if the Confederate Battle Flag should continue to be flown atop the State House. If a majority of those voting is against the continued flying of the flag, then the flag may not be flown atop the State House after January 1, 1995. The joint resolution also prohibits any other flag of the Confederacy, including the Stars and Bars, from being flown atop the State House without the authorization of the General Assembly by act or joint resolution.

Transfer of Criminal Cases to Magistrate's Court (H. 4624, Rep. Tucker). This bill makes permanent the authority to transfer criminal cases from general sessions court to a magistrate's court if the penalty for the crime does not exceed a fine of \$5,000, or 1 year imprisonment, or both. Currently the authority to transfer these cases is only temporary, effective from July 1, 1993 until July 1, 1994.

Civil Cause of Action Against Shoplifters (S. 32, Sen. Wilson). This bill allows operators of stores or establishments to recover damages for shoplifted merchandise not recovered by the store in its original merchantable condition. Under these provisions, an adult or unemancipated minor (person over age 16 who is no longer a dependent of or in the custody of a parent or legal guardian) who commits shoplifting, or the parent(s) or legal guardian(s) of an unemancipated minor with knowledge of that minor's propensity to steal, is civilly liable to the store operator in an amount consisting of the retail price of the merchandise (if not recovered in

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merchantable condition) up to an amount not exceeding \$1,500 plus a penalty not to exceed the greater of three times the retail price of the merchandise or \$150. In no case may the penalty exceed \$500. In an action to recover damages from a parent or legal guardian of an unemancipated minor with knowledge of that minor's propensity to steal, the court must consider in the interest of justice mitigating circumstances that bear directly upon the actions of the parent or legal guardian in supervising the minor who committed shoplifting.

The bill provides that a conviction or plea of guilty for committing shoplifting is not a prerequisite to the bringing of a civil suit, obtaining a judgment, or collecting that judgment under these provisions. Additionally, these provisions are not to be construed as limiting or prohibiting any other cause of action which an operator of a store or other retail establishment may have against a person who takes merchandise from the establishment. If adopted, these provisions would apply to acts of shoplifting committed after June of 1993.

Citizen's Arrest May Be Made When Person Illegally Enters a House (S. 780, Sen. Courson). Under current law, a citizen's arrest may be made, among other situations, when a person enters a dwelling house "with evil intent." This bill deletes language pertaining to "evil intent" and provides that a citizen may arrest a person who, without express or implied permission, enters a dwelling house.

Increased Penalties for Shoplifting (S. 903, Sen. Hayes). This bill increases the penalties for shoplifting. Currently a person convicted of the misdemeanor of shoplifting (defined as taking merchandise valued at \$1,000 or less) must be fined not more than \$500 or imprisoned not more than 30 days. Under this bill, that penalty would apply to a person convicted of this misdemeanor the first time, but a person convicted of this misdemeanor the second time would be fined in the discretion of the court, imprisoned not more than 1 year, or both. A person convicted a third or subsequent time must be fined in the discretion of the court and imprisoned for a mandatory minimum term of not less than 6 months nor more than 3 years, no part of which may be suspended nor probation granted. Furthermore, a person convicted of the felony of shoplifting at least \$5,000 worth of merchandise may be fined a maximum of \$2,000, either in addition to or in lieu of the current penalty (maximum 10 years' imprisonment) imposed for this crime.

Testing of Criminal Offenders for Sexually-Transmitted Diseases (S. 914, Sen. Courtney). This bill requires a person convicted of a crime involving sexual battery or sexual conduct to be tested for all sexually transmitted diseases if the conduct resulted in the exposure of the victim to any body fluids of the offender. Under current law, a person convicted of crimes involving this conduct and resulting in exposure to the victim of certain bodily fluids must be tested solely for HIV. The bill also allows a court, upon its motion or the motion of the solicitor, to order a person convicted of any criminal offense to be tested for all sexually transmitted

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diseases if the victim was exposed to the offender's bodily fluids. Testing of the offender must occur within 15 days following his conviction.

Labor, Commerce and Industry

Reapplication for Alcohol Permit or License Prohibited Within 1 Year Following Withdrawal of Initial Application (H. 4590, Rep. A. Young). Under these provisions, if an application for a beer and wine permit, retail liquor license or minibottle license filed with the Department of Revenue and Taxation is withdrawn, then no application for a similar license or permit for the specific location which was the subject of the withdrawn application may be filed with the Department within 1 year of the date when the first application was withdrawn.

Definition of Service Stations as Pertains to Aboveground Storage Requirements (H. 4591, Rep. A. Young). This bill provides that the term "service station," as pertains to requirements for the aboveground storage of flammable and combustible liquids by that facility, does not include any utility storage tank facilities which service utility operations, including vehicles, locomotives or equipment.

Alarm Service Business Does Not Include Electric Suppliers, Utilities or Municipalities (H. 4595, Rep. Jennings). This bill provides that for purposes of regulation under the State's Burglar and Fire Alarm System Businesses Act, an "alarm system business" does not include an electric supplier, an electrical utility or a municipality.

Regulation of Public Utilities (H. 4596, Rep. Hodges). This bill amends the definition of "public utility," as pertains to regulation by the Public Service Commission, so as to exclude corporations and persons which furnish gas and to include corporations and persons delivering natural gas which is distributed or transported by pipe. Additionally, as pertains to determining a rate of return for a utility seeking a new rate, charge or regulation, when the Commission determines that a competitive market exists for certain customer classes, a program is experimental, or the commission determines it is in the public interest to foster technological innovation, a rate of return for a utility does not have to be calculated if the rate is determined to be just and reasonable.

Continuing Insurance Education Hours Must Be Carried Forward (H. 4606, Rep. Koon). Current law requires insurance agents to undergo 24 hours of continuing insurance education biennially as a condition for renewal of a license to sell insurance. This bill provides that any number of hours of continuing insurance education earned in a 12-month period must be carried forward, at the designation of the agent, to the ensuing 12-month period without limitation, provided that the hours carried forward are in excess of the required minimum for a particular reporting period.

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Medical, Military, Public and Municipal Affairs

Child Day Care Regulation Review Committee (H. 4622, Rep. Davenport). This joint resolution establishes a child day care regulation review committee, the purpose of which is to study the economic impact of child day care facility regulations of the Department of Social Services and how these regulations affect facility operators, families using these facilities, and agencies and institutions of the State and its political subdivisions. The committee must develop recommendations and report to the General Assembly no later than January 10, 1995.

The committee consists of 8 members of the General Assembly, 4 each from the House and Senate. Of the House members, 2 must be appointed by the Speaker, and 2 must be members of the House Ways and Means Committee, appointed by the committee chairman. Of the Senate members, 2 must be appointed by the Senate President and 2 must be members of the Senate Finance Committee, appointed by the committee chairman.

The joint resolution also suspends until March 10, 1995 certain day care regulations pertaining to training, criminal history background, facilities, staffing and supervision, and indoor play space.

Reauthorization of State Board of Physical Therapy Examiners (H. 4627, Rep. Kirsh). This joint resolution reauthorizes the South Carolina Board of Physical Therapy Examiners for another 6 years.

State Board of Examiners in Speech Pathology and Audiology Reauthorized (H. 4628, Rep. Kirsh). This bill changes the name of the State Board of Examiners in Speech Pathology and Audiology to the State Board of Examiners in Speech-Language Pathology and Audiology and amends the membership of the board to include 2 speech-language pathologists. Additionally, nominations for appointment to the Board, as currently submitted to the governor by the South Carolina Speech and Hearing Association, must be made only for the speech-language pathologist and audiologist positions on the board. The bill also reauthorizes the board for 6 years.

Changing of Accreditation Requirements and Reauthorization of State Board of Occupational Therapy (H. 4629, Rep. Kirsh). This bill requires that an accredited educational program, as currently completed by a person seeking to be licensed as an occupational therapist or an occupational therapy assistant, must be either nationally or regionally accredited. The bill also deletes provisions pertaining to accreditation or approval of these education programs by certain organizations and allows the State Board of Occupational Therapy to prescribe by regulation a verification fee. The bill also reauthorizes the Board for 6 years.

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State Board of Pharmacy (H. 4630, Rep. Kirsh). The bill amends the procedure for selecting pharmacists to represent the state's 6 congressional districts on the State Board of Pharmacy, to provide that the board must conduct an election to nominate 3 pharmacists from each congressional district, to be submitted to the governor for appointment. The governor must appoint 1 pharmacist to represent each congressional district from among the nominees submitted for that district. Participation in electing a pharmacist to represent each congressional district is limited to pharmacists licensed and residing in the district for which the nomination is being made.

The bill also provides that the current fees for a permit to open a new pharmacy and to renew a pharmacy operating permit, currently \$100 and \$50 respectively, are effective until the Board sets these fees in regulation, in accordance with the Administrative Procedures Act. The bill also deletes obsolete provisions pertaining to funding of the Board under a prior appropriations act and reauthorizes the Board for 6 years.

Reauthorization of State Board of Podiatry Examiners (H. 4631, Rep. Kirsh). This bill reauthorizes the State Board of Podiatry Examiners for 6 years and requires that examinations to practice podiatric medicine be offered at least twice annually. The bill also allows the Board to grant a license to practice podiatric medicine without an examination to a person residing or employed in South Carolina who at the time of application (1) is licensed or certified by a similar board of another state whose standards, in the board's opinion, are not lower than those required under South Carolina law or (2) has been practicing podiatry in another state and has qualifications not lower than those required under South Carolina law.

The bill also requires the medical staff chief of medical director of a health care facility to report to the Board any action resulting in the revocation, suspension or other limitation on a podiatrist's privileges to practice in that facility. Additionally, when issuing a license or considering whether a license should be suspended or revoked, the board upon reasonable grounds may require a licensee or applicant to submit to a mental or physical examination by board-designated physicians and may obtain records relating to the mental or physical condition of the licensee or applicant. The results of the exam or obtainment of these records would be admissible in a hearing before the board. If the person fails to consent to release of these records to the board or fails to submit to the mental or physical examination, then the board must enter an order suspending or denying the license pending further compliance. A person prohibited from practice of podiatry or medicine under these provisions must be afforded the opportunity at reasonable intervals to demonstrate to the board his ability to resume or begin practice with reasonable skill and safety to patients.

Reauthorization of State Board of Examiners in Opticianry (H. 4632, Rep. Kirsh). This bill reauthorizes the State Board of Examiners in Opticianry for 6 years and provides that the Board, when preparing an opticianry competency examination, must ensure that the examination meets professional testing standards. The bill also provides that when a person

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submits to the board a complaint against an optician, the board may not require the person submitting the complaint to assist the board in subsequent administrative or court proceedings involving the complaint as a condition to acting on the complaint. Finally, the bill amends the definition of "retail sales", as pertains to the State's Sales and Use Tax, so as to exclude corrective lenses and eyeglass frames.

Performance of Labor By Convicts (H. 4634, Rep. Cromer). This bill amends several provisions pertaining to the use of convicts to perform labor. Under current law, a local governing body may authorize a sheriff or another official in charge of a local correctional facility to require an able-bodied convict committed to the facility to perform labor on public works or ways. This bill would allow the sheriff or other official in charge of the facility, however, to exempt a prisoner from this labor requirement if the inmate is considered an unusually high risk for escape or violence. The bill also provides that the governing body of any county must require prisoners under the county's jurisdiction who are housed in a county prison facility and who are serving a sentence not exceeding 90 days to perform litter removal functions. Currently a county governing body may allow these prisoners to perform litter functions. This requirement does not apply to prisoners who are exempt under other provisions of law. The bill also mandates the use of convicts located in county and municipal correctional facilities on work gangs on public works, except for convicts otherwise exempt by law, and provides that if a county supervisor finds it inconvenient or impractical to work a convict committed to the county work gang, then the convict may be transferred to the county jail or the state penitentiary.

Removal of Dead Bodies (S. 505, Sen. Rose). This bill provides that for purposes of investigating suspicious or violent deaths, if a county does not have a medical examiner commission, then authorization for removal of a dead body from the place where it was found or being examined must be obtained from the county coroner or a deputy county coroner.

Ways and Means

South Carolina Prepaid Postsecondary Education Expense Program (H. 4597, Rep. Cromer). This bill creates the South Carolina Prepaid Postsecondary Education Expense Program, the purpose of which is to provide a medium through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution, at a rate lower than the projected corresponding cost at the time of actual enrollment. These payments would be combined and invested in a manner that at least yields sufficient interest to generate the difference between the prepaid amount and the cost of registration and dormitory residence at the time of actual registration. Students enrolling in a state post-secondary institution pursuant to these provisions would be charged no fees in excess of terms delineated in the advance program contract.

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In order to administer this program, the bill creates a 9-member South Carolina Prepaid Postsecondary Education Expense Board. This board would consist of 9 members, including the State Treasurer as an ex-officio member and 8 members appointed by the governor with the advice and consent of the Senate. Of the gubernatorial appointees, one must be nominated by the Senate President Pro Tempore, for a term coterminous with the President Pro Tempore; one must be nominated by the Speaker of the House for a term coterminous with the Speaker; one member must be nominated by the Council of Presidents of State Institutions of Higher Learning for a 4-year term; and one member must be nominated by the Advisory Council on Private College Presidents for a 4-year term. This board must appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned to him by the board. The bill lists the powers of the board, which include, among others, setting residency requirements for participation in this program and imposing reasonable time limits on the use of tuition benefits from this program. The board also must establish a comprehensive investment plan for the purpose of investing funds received from prepaid contracts.

It is the responsibility of the board to develop advance payment contracts, which must, among other requirements, include terms under which payments are to be remitted and conditions for termination of contracts and refunds. At a minimum, the board must make advance payment contracts available for 3 independent plans: (1) Community College Plan; (2) University Plan; and (3) Dormitory Residence Plan. The community college plan must provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required to obtain an associate degree. Likewise, the university plan must provide prepaid registration fees for a specified number of undergraduate semester hours not to exceed the average number of hours required to obtain a baccalaureate degree. The costs of both the community college and university plans must be based primarily on the average current and projected registration fees for, respectively, community colleges and state 4-year postsecondary institutions and the number of years expected to elapse between the purchase of a plan and the exercise of benefits provided in the plan. In a dormitory residence plan, which may be purchased only in conjunction with a university plan, the advance prepaid contract must include prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state 4-year postsecondary institution. The bill also allows a community college plan, university plan or dormitory residence plan to be applied to independent colleges and universities in South Carolina and lists conditions governing that applicability.

The bill also allows prepaid contracts to be converted (e.g., conversion of university plan to community college plan). The State is required to meet the obligations of the board to beneficiaries of this program if monies in the program's fund do not offset the board's obligations. Assets in this fund must be maintained, invested and expended solely for the purposes of these provisions and may not be loaned, transferred or otherwise used, except for investment purposes, by the State

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for any other purposes. The State, however, may discontinue this program upon determination that the program is financially infeasible. The bill provides a state income tax deduction for money contributed to purchase a university or community college advance payment plan, along with income attributable for federal tax purposes to a beneficiary from payments of tuition and fees by either of these advance payment contracts in the year the beneficiary's tuition is paid.

The bill also states that these provisions may not be construed as promising or guaranteeing that a person will be (1) admitted to a state postsecondary institution or a particular postsecondary institution; (2) allowed to continue enrollment at a state post-secondary institution after admission; or (3) graduated from a state postsecondary institution.

Payment of Property Taxes by Installments (H. 4599, Rep. J. Bailey). This bill permits a county, by ordinance, to allow property taxes to be paid in installments. Under these provisions, property taxes may be paid in 4 installments, beginning with taxes due for the first tax year after the date the ordinance is enacted. A taxpayer must select 1 property tax year at a time to pay via installments, and the selection for a tax year, once made, may not be revoked. A tax notice must be mailed to the taxpayer for each installment.

The bill provides that the first three installments are due, respectively, on April 1, July 1 and October 1. Each of these 3 installment payments must equal at least one-quarter of the total property tax due for the property for the prior tax year, with the balance due by the following January 15. The tax notice for the final installment must state the total tax due for the year, including in the total any penalties for late payment of an earlier installment, with the amount paid for earlier installments shown as a credit against the tax due. Any overpayments shown on the tax notice as a result of earlier installment credits must be refunded promptly by the county treasurer. The final tax notice must provide a space whereby the taxpayer can choose to pay installments for the next property tax year.

If 1 of the first 3 installments is not made in a timely manner, then there must be added to the tax due for the tax year a penalty of 1 percent of the tax due on the property for the tax year for each month or portion of the month the installment remains unpaid. This penalty may not exceed 5 percent of the tax due for the year; is considered part of the tax due on the property; and must be paid when the unpaid balance of the tax is paid.

Homestead Exemption Amount to be Adjusted Annually for Inflation (H. 4608, Rep. Rudnick). This bill requires the amount of the homestead exemption to be adjusted annually to offset increases in the consumer price index. The adjusted exemption amount applies in place of the current exemption (\$20,000) for the next tax year. The Comptroller General must calculate the adjustment and notify county auditors of the adjusted exemption amount. This inflation adjustment must first be made for the exemption amount applicable for the 1994 tax year.

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Eligibility for State-Paid Health Insurance for Retirees (H. 4613, Rep. Tucker). Current law allows an active employee retiring with 10 or more years of state-covered entity service credited under a state retirement system to be eligible for state-paid health insurance premiums if the last 5 years of service are consecutive and in a full-time permanent position with a state-covered entity. This bill would allow the director of the Division of Insurance Services of the Budget and Control Board to waive this service eligibility requirement in a case of hardship.

County Business License Fees and Taxes May Not Be Levied on Insurance Companies (H. 4614, Rep. Boan). This bill prohibits a county from levying business license fees or taxes on insurance companies.

Career Increment Pay Plan for Classified State Employees (H. 4615, Rep. Rogers). This bill requires the Budget and Control Board to develop and implement a career implement pay plan for classified state employees. This plan must provide for longevity base pay increases for classified employees, and these employees would be eligible for annual increases based upon the provisions of the plan. Increases under this pay plan would be in addition to any other increases provided by the General Assembly.

The increment pay plan must provide for increases limited to 15 steps of equal percentage from the minimum to the maximum salary for each of the pay grades, and each classified employee must receive the pay increment on their anniversary date, so long as the employee's performance evaluation is rated at least satisfactory. Employees would continue to receive pay increments annually based on their annual performance evaluations.

The bill prohibits pay increments from being given if the increments would result in the maximum salary for the employee's pay grade being exceeded, and also prohibits a pay increment from being given for the period of time that an employee's performance evaluation is less than a satisfactory rating.

Nonrecurring Revenues May Not Be Appropriated for a Recurring Purpose (H. 4618, Rep. Graham). This bill prohibits the General Assembly from appropriating nonrecurring revenues for a recurring purpose except upon a two-thirds affirmative vote of the entire membership of the House and the Senate. Any nonrecurring appropriation enacted under these provisions must also include a statement identifying the source of the nonrecurring revenue.

Solicitors With More Than 24 Years' Active Service Eligible for Additional Retirement Benefits (H. 4625, Rep. Tucker). This bill lowers from 25 to 24 the years of active service above which a solicitor is eligible for additional retirement benefits, conforming his eligibility for these additional benefits because of length of service with the current 24 years of credited service required for a solicitor to be eligible for normal retirement benefits.

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Homestead Exemption from School Operating Taxes (H. 4633, Rep. Boan).

This bill would exempt residences from payment of property taxes for school operating purposes. This exemption would be phased in so that the fair market value of a homestead exempt from these taxes is \$5,400 in property tax year 1994; \$21,000 in 1995; \$54,000 in 1996 and 100 percent of fair market value after property tax year 1996. The exemption does not, however, apply to school taxes levied for debt service, payments for lease-purchases, or additional school taxes for operating purposes levied for property tax years beginning after 1997. The exemption is conditional, contingent on an appropriation by the General Assembly each year reimbursing school districts an amount equal to the Department of Revenue and Taxation's estimate of total school tax revenue resulting from the exemption in the next fiscal year. If the appropriation for a year is less than the certified estimate, then the Department must calculate a proportionate reduction in the exemption amount otherwise applicable to eliminate any loss of revenue to school districts. The Comptroller General, from the State's general fund, annually must pay to the county treasurer of each county for the account of each school district in the county a sum equal to taxes not collected for the school district because of this exemption.

Additionally, beginning with fiscal year 1994-1995 and ending with fiscal years after 1997-1998, the bill limits total spending in a fiscal year by county governments, municipal governments, special purpose districts and public service districts to the rate of increase in the consumer price index for the prior calendar year. This limit in spending increase, however, does not apply to spending for such items as debt service or to offset a prior year deficit. Also during that period, total revenues of a school district from property taxes levied for operating purposes for a school year may not exceed the total of these revenues in the prior school year by more than the Education Finance Act inflation factor, except in limited circumstances such as revenues for debt service or to offset a prior year deficit.

The bill also requires the Department of Revenue and Taxation to divide counties into 5 groups for purposes of assigning dates for counties to implement countywide reassessment programs. Each county must implement a countywide assessment program as scheduled by the Department, and each county must implement this program at least every 5th year after the initial reassessment year scheduled by the Department. The countywide reassessment program applies to all real property in a county. If the Department determines that a county has failed to meet these reassessment requirements, then it must notify the State Treasurer, who in turn must withhold 20 percent of distributions due to the county under the State Aid to Subdivisions Act until the county complies. When the Department determines the county has complied, the Treasurer must release the withheld funds. A county may appeal a determination of noncompliance to the Department and if aggrieved by the Department's determination may appeal further as provided by law.

Tax Credits for Employers Who Establish Adult Care Programs (S. 115, Sen. Giese). Current law allows an employer to be granted an income tax credit for establishment and operation of a child care program for his

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employees. This bill would allow employers also to be granted income tax credits for establishing an adult care program for their employees. Tax credits allowed under these provisions cannot exceed \$3,000 for each employee if the employee receives payments for either child or adult family member care and \$6,000 if the employee receives payments for both. Credits for employers who establish and operate adult care programs apply only to expenditures made after 1994.

Certain Real Estate Transfers Exempt from Documentary Stamp Tax (S. 277, Sen. Wilson). This bill exempts from the Documentary Stamp Tax any deeds which transfer real estate to a spouse or former spouse pursuant to an order of the family court. If adopted, these provisions would take effect on the first day of the third month following approval by the governor and apply to deeds recorded on or after that date.

Application of Homestead Exemption to Life Estates Created Other Than by Will (S. 346, Sen. Giese). This bill amends the Homestead Exemption law to provide that life estates created other than by will are eligible for the exemption regardless of the date when the estate became effective. Under current law, this exemption applies to those life estates created other than by will only if the estate was in effect on or before December 31, 1979.

Property Tax Exemption for Vehicles of Persons Using Wheelchairs Limited to 2 Vehicles (S. 547, Sen. Lander). This bill limits to 2 the number of personal motor vehicles for which persons required to use a wheelchair are allowed a property tax exemption.

Ordinances to Exempt Certain Property From Property Taxation (S. 604, Sen. Hayes). This bill allows a municipal governing body, by ordinance, to exempt from municipal property taxes for not longer than 5 years property located in the municipality which is receiving the 5 year-exemption from county property taxes as new corporate headquarters, corporate office facilities, distribution facilities, research and development facilities, and additions to these facilities. This exemption is permitted once the State Constitution is amended to authorize this exemption. (A summary of a proposed constitutional amendment to authorize this exemption can be found immediately below, in S. 605.)

Municipalities May Exempt Certain New Facilities From Property Taxation for 5 Years (S. 605, Sen. Hayes). This joint resolution seeks to amend the Constitution to allow the governing body of a municipality, by ordinance, to exempt from property taxation for not more than 5 years all new corporate headquarters, corporate office facilities, distribution facilities, and facilities of new enterprises engaged in research and development activities located in the municipality, along with additions to these facilities.

Applicability of Income Tax Credits and Deductions (S. 666, Sen. Land). This bill revises several provisions pertaining to permitted tax credits and deductions under the State's Income Tax. Under these provisions, a taxpayer's surviving spouse who has another retirement income (in addition to retirement

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income of their late spouse) is allowed an additional retirement exclusion. The bill also provides that the tax credit allowed for taxpayers who establish a child care program for their employees applies only if the taxpayer employs residents of South Carolina, and that any tax shown to be due on an income tax return must be paid at the time the return is filed, regardless of any extension of time granted for filing the return. Additionally, the checkoff for the Eldercare Trust Fund of South Carolina is allowed only on individual income tax returns.

County Board of Appeals (S. 741, Sen. Land). This bill requires each county to establish a board of appeals, the purpose of which is to hear appeals of taxpayers concerning the valuation, assessment and taxation of their property. The board, consisting of 7 to 12 members, must be elected by the governing body of a county. Members serve staggered 4-year terms and are entitled to mileage and at least \$50 for each meeting attended. The board must elect a chairman, who may call meetings or hearings for the purpose of hearing appeals from the assessor's office. If the chairman decides that further meetings are needed, he may name panels to hear appeals. The chairman may call hearings for the board or panels as often as he considers necessary, and the chairman must appoint panel chairmen, who serve at his pleasure.

The bill provides that if the board fails to schedule a hearing within 2 years of the appeal, then the taxpayer's value is the taxable value contended by the taxpayer for the tax year in question. This does not apply, however, if the taxpayer requests a delay or rescheduling of a hearing. If a taxpayer has made an appeal to the board, but the board hearing is not held until after one or more subsequent assessment dates for the property; nothing has occurred between the date of the assessment being appealed and the date of the hearing which would change the property assessment, and the person responsible for paying the taxes has not changed between the date of the assessment being appealed and the date of the hearing, then the appeal is automatically extended to cover subsequent assessment dates before the hearing.

The bill allows a taxpayer or an assessor to appeal a finding of the board to the Department of Revenue and Taxation, and the grounds for appeal must be filed with the Board of Appeals. Within 30 days after the receipt of the notice of appeal, the board must deliver a certified copy of the proceedings before the board, together with the transcript of testimony and exhibits offered to the board, to the Department, the assessor and the taxpayer. Upon receipt of this information, the Department would schedule a hearing on the appeal, at which time the taxpayer and assessor would offer argument in support of their positions. The board may also attend the hearing and offer support for its findings. After considering the evidence of the hearing, the Department must issue a written finding, which serves as the order of entry upon the county's assessment rolls.

The bill also requires a county assessor to keep an appeals log book, with information pertaining to the appeal (basis of appeal, etc.), and to

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also be responsible for tax maps, aerial photography and other related matters of tax mapping.

Sales Tax Exemption for Tangible Personal Property Sold to Charitable Hospitals (S. 1065, Senate Finance Committee). This bill exempts from the State's sales tax any tangible personal property purchased by a charitable hospital which predominantly serves children, provided that the hospital (1) is exempt from payment of property taxes and (2) provides care without charge to the patient.

Without Reference

Health and Dental Coverage for Retirees (H. 4604, Rep. Boan). This bill provides that a person who retires with at least 5 years' service under a state retirement system is eligible to participate in the state's health and dental insurance plan only if the service was in a state-covered entity. The bill also requires that the last 5 years of this service be consecutive and in a full-time permanent position with a state-covered entity.

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S. C. Legislative Council